



# THE EMPIRE OF BYZANTIUM NOVUM

## Office of the Chancellery

### Theodore Balsamon: On the Powers of the Patriarch of Constantinople, late 12th Century

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#### Introduction

It was traditional for western historians to argue that the Byzantine church was controlled by the Emperor, a phenomenon known as "caesarapapism". At times this may have been true, as it was in the West. But as Byzantine history proceeded the Church maintained its power while the emperor lost political power. In the late 12th century the state was still strong, but the writings of Theodore Balsamon show that even by then there was a tendency to exalt the powers of the patriarch of Constantinople. The extracts here were prepared for a paper I gave on this subject at the Byzantine Studies Conference in Amherst MA, in fall 1989.

Theodore Balsamon was the most significant of Byzantine canon law writers. His commentaries on the Nomocanons in XIV Titles, a longstanding compilation of civil and ecclesiastical decrees, provides a wealth of information on Byzantine society and church in the 12th century. The best edition of Balsamon is in G.A. Rhalles & M. Potles, *Sintagma ton theion kai `ieron kanonon ktl*, 6 vols., (Athens: G. Charophylakos, 1852-59, repr. 1966). His commentaries are collated there with those of the two other class Orthodox canon law commentators Zonaras and Aristenus. References to this edition are given in document paper as RP(vol. no.), pages. A slightly variant edition of the commentaries on the canons by William Beveridge in 1672 is reprinted in J.P. Migne, *Patrologiae cursus completus*, Series Graeco-latina, (Paris: 1857-66), Vols. 137-138. Migne prints Balsamon's commentary on the Nomocanons Vol. 104, along with other works of Photius. References to Migne are given in this paper as PG(vol. no.), cols.

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#### **I. The relevant canons which addressed the status of Constantinople and are discussed by Balsamon**

The following canons dealt directly with the canonical status of Constantinople:

##### **Constantinople I (381), c.3**

THE Bishop of Constantinople, however, shall have the prerogative of honour after the Bishop of Rome; because Constantinople is New Rome.

##### **Chalcedon (451), c.28**

FOLLOWING in all things the decisions of the holy Fathers, and acknowledging the canon, which has been just read, of the One Hundred and Fifty Bishops beloved-of-God (who assembled in the imperial city of Constantinople, which is New Rome, in the time of the Emperor Theodosius of happy memory), we also do enact and decree the same things concerning the privileges of

the most holy Church of Constantinople, which is New Rome. For the Fathers rightly granted privileges to the throne of old Rome, because it was the royal city. And the One Hundred and Fifty most religious Bishops, actuated by the same consideration, gave equal privileges ( isa presbeia ) to the most holy throne of New Rome, justly judging that the city which is honoured with the Sovereignty and the Senate, and enjoys equal privileges with the old imperial Rome, should in ecclesiastical matters also be magnified as she is, and rank next after her; so that, in the Pontic, the Asian, and the Thracian dioceses, the metropolitans only and such bishops also of the Dioceses aforesaid as are among the barbarians, should be ordained by the aforesaid most holy throne of the most holy Church of Constantinople; every metropolitan of the aforesaid dioceses, together with the bishops of his province, ordaining his own provincial bishops, as has been declared by the divine canons; but that, as has been above said, the metropolitans of the aforesaid Dioceses should be ordained by the archbishop of Constantinople, after the proper elections have been held according to custom and have been reported to him.

### **Council in Trullo (Quinisext) (692), c. 36.**

RENEWING the enactments by the 150 Fathers assembled at the God-protected and imperial city, and those of the 630 who met at Chalcedon; we decree that the see of Constantinople shall have equal privileges with the see of Old Rome, and shall be highly regarded in ecclesiastical matters as that is, and shall be second after it. After Constantinople shall be ranked the See of Alexandria, then that of Antioch, and afterwards the See of Jerusalem.

The texts here come from the most convenient collection of the canons in English - Henry R. Percival, ed., *The Seven Ecumenical Councils*, The Nicene and Post Nicene Fathers, 2nd series, ed. Philip Schaff & Henry Wace, Vol. XIV, (Grand Rapids, MI.: Eerdmann, 1956: orig. ed, Oxford & New York: 1900). Future references are given as `Percival'.

## **II. Balsamon's Opinions**

### **On patriotism**

Balsamon, on Chalcedon, c.28, RP2, 285-286

But I, who am the most unmixed citizen of Constantinople, and have been part of the most holy throne of Constantinople, both want and pray that Constantinople has, by the grace of God and without any stumbling block, all the privileges bestowed upon her by the divine canons.

### **On the Meaning of Constantinople, c. 3**

Constantinople I (381), c.3 - Percival, 178-179; Balsamon, PG137, cols. 321-326, and RP2, 174-176; RP2, 175

And here the holy fathers of the second council directed that the bishop of this city, because it is the New Rome, have the primacy of honor after (ta presbeia tes times meta) the bishop of the older Rome. Now, since they ordained in this manner, some wish to understand the word `meta' only in the sense of `coming after in time' and not as `subjection in honor'. To support their arguments they use the 28th canon of the Fourth Council which says that the same (isa) prerogatives of the most holy throne of the older Rome are held by the throne of

Constantinople, and say that this cannot mean second in rank. But, you (should) read the 130th Novel of Justinian, which is in the Basilics Bk5. tit.3, and the scholia on Title 1, chap. 5 of the present collection, and Canon 36 of the Council in Trullo, all of which say that the throne of Constantinople is second

*-Balsamon followed here, sometimes word for word, the arguments of Zonaras, and argued against Aristenus.*

### **On Appeals beyond Constantinople, and to the Emperor**

Balsamon, RP3, 134,

On the one hand the apostolic canons say that those justly deposed, that is to say those not having the help of an appeal, and who act as priests, are to be declared outlawed. But the present canon, which is like those, directs first that those who have been deposed by a fully authoritative synod (upo sunodou teleias), which is in Constantinople, and against which there is no appeal, not be received favourably by another synod, and directs secondly that..."

*This raises a question, not strictly linked to the ecclesiastical primacy of the patriarch, of Balsamon's view of church and state. Balsamon is sometimes criticized for his support of secular power over the Church. Sometimes this seems justified; for instance in his exercise (melete) "Concerning the Privileges of the Patriarchs", he remarked that "the service of the emperors includes the enlightening and strengthening of both the soul and the body; the dignity of the patriarchs is limited to the benefit of souls and to that only." [Balsamon, PG138, 1014-34. Translation here from Ernest Baker, *Social and Political Thought in Byzantium*, (Oxford: Clarendon, 1957), p. 101.]*

*However, in his commentary here on Antioch, c.4, and on other similar canons, Balsamon insists ecclesiastical courts' decisions must not be appealed to the emperor. Since such appeals gave the emperor important opportunities to interfere in church affairs, for example in the Amisus case, Balsamon's repeated rejection of them does not accord well with charges of caeseropapism.*

Antioch (341) c.12 - Percival 114; Balsamon PG137, 1307-1314 and RP3, 146-150. RP3, 146 But the appeal is not to be submitted to the ears of the emperor on account of this annoyance. If then someone abandons going to a higher synod, and disputes the proper form of pleas of justification in the rules of appeal, and troubles the emperor about this, not only shall he derive no benefit by as one not being worthy of pardon, but all doors of justification will be fastened against him and he will have no hope of restoration.

Balsamon, RP3, 146

But if someone said that, since the canons say that the one deposed is not to turn to the emperor, but to a greater synod, one who was deposed by the bishop of Ephesus, or Thessalonic would be rightly compelled to turn to the ecumenical patriarch, but one who has been condemned by the patriarch, since he has nowhere else to flee to, shall he be punished for turning to the emperor or not?

Justinian, 137th Novel, as cited by Balsamon, RP3, 146

But if some most holy bishops of this same synod have some dispute with each other, either concerning ecclesiastical justice, or concerning some other matter, let their metropolitans examine the matter with two other bishops from the same synod, and if each side will not abide in the decisions, in this case let the most blessed patriarch of the province (diakeseos) hear the

suit between them, and settle those things, in accord with the ecclesiastical canons and the civil laws, since none of the parties can speak against his decisions.

Balsamon comments on Justinian's Novel, RP3, 146

It seems to me that the canon was promulgated with a view to the decisions of the other bishops and metropolitans, but not assuredly about the decisions of the patriarchs, for the sentences of these are not subject to appeal. Therefore, he who goes to the emperor for the sake of the examination in relation to an appeal decision of them, he is punished by the present canon.

### **On the Power of the Patriarchs over Surrounding Sees**

Balsamon, RP2, 171,

Take notice from the present canon that formerly all the metropolitans of the provinces were themselves heads of their own provinces, and were ordained by their own synods. But all this was changed by Canon 28 of the Synod of Chalcedon, which directs that the Metropolitans of Pontos, Asia, and Thrace, and certain others which are mentioned in this Canon should be ordained by the Patriarch of Constantinople and should be subject to him.

*The translation here is from Percival, 177.*

### **On Constantinople replacing Old Rome**

Balsamon, RP3, 146-150

Because it is frequently brought up - when it is necessary to submit the decision of Constantinople to appeal - it seemed necessary to me to add my opinion of this, and to give my reasons...the 4th canon of the Council of Sardica directs that the one who has been condemned has as security two appeals, and that the final judgement be by the pope of Rome...I say that since the decree of St. Constantine, the one given to St. Sylvester, and one which is covered by us in the interpretation of Chap. 1 of Title VIII of the present work, directs that the pope have all the royal powers, and that the Second Ecumenical Council and the Fourth gave the patriarch of Constantinople the privileges of the pope, and decrees with respect to this all honor, from necessity there is not appeal over his decision.

Balsamon, RP3, 242.

And, as we said in the preceding canons, that the matters defined with regard to the pope are not his privileges alone, so that all condemned bishops must from necessity go before the throne of Rome, but that this is understood in a certain sense as to Constantinople. These things we say yet again.

*Angold, Byzantine Empire, p. 238, points out that Balsamon extended the papal analogy to his description of the administration of the Great Church. In his "Meditation on the Offices of Chartophylax and Protoducus", RP4, 534, Balsamon writes that the chartophylax "was the patriarch's hand and mouth...for which reason the keys of the kingdom of heaven are given to the chartophylax".*

*Angold also points to a passage, RP1, 149, where Balsamon claims that the chartophylax is the patriarch's representative, hence a 'patriarchal cardinal' and should enjoy the same privileges as a cardinal.*

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